



Expert Conference on the Proposed Victims and Defence Offices

-Concept Note-

The Hague, 23-24 March 2015

Objective

The Expert Conference on the proposed Victims and Defence Offices at the ICC will bring together key external stakeholders as well as relevant actors within the Court to discuss the rationalising and streamlining of the existing Registry structures that provide support to victims, their representatives and Chambers, as well as to suspects and accused and their Defence Counsel. These discussions will be taking place within the wider context of increasing effectiveness and efficiency, eliminating duplication, as well as creating synergies within the Registry's organisational structure and operations.

The Expert Conference has been designed to give counsel, experts, representatives of NGOs and other relevant groups an opportunity to further provide their input and openly discuss all relevant aspects of an effective organisation of defence and victims participation at the Court. It is the shared vision of most participants that no proposal should adversely impact the rights of the suspects and accused to a fair trial or the rights of victims to effectively and meaningfully participate in proceedings before the Court. Constructive dialogue amongst participants is intended to foster a mutual understanding of the issues at stake and, when possible, arrive at agreements on commonly held concerns. This will allow all stakeholders to take part in bringing about stronger and more effective structures to ensure the full respect and realisation of the rights of the defence and victims. The discussions will form the basis for the formulation of the Registrar's proposals for amendments, if any, to the Regulations of the Court to be submitted to the Advisory Committee on Legal Texts (ACLT) and the Judges' plenary.

Participants

The participants will include legal practitioners with experience representing accused persons and/or victims before international tribunals and in domestic settings, representatives from civil society organisations focused on issues pertaining to international criminal law, international humanitarian law and human rights as well as representatives from international bar associations. Representatives from other international tribunals and from the relevant sections and independent offices in the ICC will also be invited to take part.

Procedural Background

In November 2013, during its twelfth session, the Assembly of States Parties authorised the Registrar to reorganize and streamline the Registry's organizational structure and operations with the goals of eliminating duplication, increasing effectiveness and efficiency, as well as creating synergies.¹ Notably the Assembly also mandated the Registrar to assess, as part of the on-going process of reorganization and streamlining of the Registry and with the support of independent experts, the impact of the roles and responsibilities of the Office

¹ [ICC-ASP/12/Res.1](#), section H, paragraph 3.



of Public Counsel for the Defence on the legal aid system and to develop an overall strategic vision for the Defence.²

As a first step of the reorganization (known as the *ReVision* project), the Registrar decided upon a new high-level organizational structure and design for the Registry, which reflects, inter alia, the consolidation of similar or closely related functions, the pooling of resources, and the re-definition of some of the functions in order to refocus and enhance the Registry's performance and improve service delivery. Within that high-level structure, a recommendation was made by the *ReVision* project to rationalise and streamline the existing Registry structures providing support to victim participation, including assistance and support to victims, victims' representatives and Chambers, as well as assistance and support to suspects and accused and their Defence counsel.

As a result, on 31 October 2014, the Registrar presented a *Draft Basic Outline of Proposals to Establish Defence and Victims Offices in the Registry*, a document that offered an overview of the vision, ideas and rationale behind the proposals to establish a Victims Office and a Defence Office within the Registry. As some of the current structural elements supporting these functions are defined in the Regulations of the Court, the implementation of the proposals are subject to amendments of the Regulations by Court's Judges. Thus, the intention of this document was to serve as a basis for further discussion with relevant stakeholders in order to assist the Registrar in the preparation of a formal proposal under the Court's Regulations, to be submitted to the Advisory Committee on Legal Texts (ACLT) and plenary of Judges.

The launching of the Basic Outline was a crucial milestone in this consultation process, and throughout the months following the presentation of this document, the proposals of the Registrar received widespread attention from members of the legal profession, experts, NGOs and State representatives. The Registrar received numerous reactions to the proposals and held a number of meetings in The Hague, in New York and elsewhere with States Parties representatives, civil society representatives, counsel practicing before the Court as well as other internal and external stakeholders. Importantly, the Assembly welcomed, at its last session, the initiative of the Registrar to reorganize, streamline and strengthen the Registry's support to the defence and victim participation and representation.³ These discussions have been instrumental in generating new ideas and approaches to improving Registry functions and services to victims and defence in the context of the proposals.

The Expert Conference is thus intended as the logical next step in a long and deliberate consultative process initiated by the Registrar in 2014. The interest shown by a wide range of actors towards the proposed changes justifies the extensive consultations that will culminate in the organisation of the Expert Conference.

Vision

The Registrar's proposals to be discussed during the Conference can be briefly summarised in three main recommendations: i) the establishment of a single Victims Office; ii) the establishment of a single Defence Office; and iii) the establishment of an independent association of Counsel eligible to appear before the Court. Further details concerning these proposals and the rationale behind them can be found in the *Draft Basic Outline of Proposals to Establish Defence and Victims Offices in the Registry* which forms part of the documentation for this event.

² ICC-ASP/12/Res.8, Annex 1, paragraph 6 (e).

³ ICC-ASP-13/Res.5, paragraph 50.



General vision in relation to the establishment of a Victims Office

The Registrar proposes the creation of a single Victims Office, which would consolidate the functions currently performed by the Office of Public Counsel for Victims (OPCV) and the Registry's Victims Participation and Reparations Section (VPRS), as well as redefine some functions currently being performed by the Counsel Support Section (CSS). The current fragmentation of Registry functions related to the participation, representation and reparation of victims in the Court has resulted in a complex and inefficient organizational structure, which allows for duplication of efforts and resources that creates confusion not only for victims, to which the Court owes a heavy responsibility to provide for adequate mechanisms for an effective representation, but also for legal representatives and for the Court's own staff members at times, .

With a view to ensuring a more joined up and effective approach to victim participation, the Registrar is proposing the establishment of a single Victims Office, which would integrate all the services related to victim participation in one consolidated structure. This Office will thus ensure increased sustainability by allowing for more effective planning and use of resources, maximize the quality of services as well as the quality, visibility and efficiency of legal representation by creating synergies. As such, the proposal is for representation of victims to rely on a pool of in-house counsel and legal experts which will work with an external Counsel.

General vision in relation to the establishment of a Defence Office

The Registrar is also proposing the creation of a single Defence Office, which would consolidate most of the functions currently performed by the Office of Public Counsel for the Defence (OPCD) and CSS. It is proposed that in the future, the representation of suspects and accused, including any Duty Counsel or ad hoc assignments, would be carried out only by external Counsel. In creating this Office, the main goal of the Registrar is to enhance the support received by the Defence teams and further empower the role of the Defence teams within the proceedings and within the organization, as well as to achieve further efficiency by rationalising the use of resources and supplementing the current obstacle in providing high quality of services within the current limitation of resources.

Such a structural change would optimize the utilization of existing resources and would improve the services provided to the Defence. This would not affect adversely the resources available for legal aid. The envisaged Defence Office would be responsible for exercising the Registrar's duties under Rule 20 of the Rules to promote the rights of the Defence and to support the Defence, and would have the capacity to carry out the full range of defence-related functions, except for the actual representation of suspects and accused, which would continue being carried out by independent external counsel.

General vision in relation to the establishment of an Association of Counsel

The establishment and formal recognition of an independent self-governing Association of Counsel is a key element of the reform of the support structure to Counsel. It is proposed that the recognition of such an Association, particularly if membership is a requirement for admission to the List of Counsel, would reinforce the independence of the legal profession and would ensure the proper and legitimate representation of the general and collective interests of counsel within the Court, *vis-à-vis* the Assembly of States Parties and other stakeholders.

The Association of Counsel would complement the institutional support provided to the Defence and Victims representatives by the Registry. It would represent the collective interests of Counsel and would be an



interlocutor for the Registrar and others in the ICC system dealing with Counsel issues. The Registrar would like to engage in a dialogue with such an Association to determine which services can be best provided by the Registry and which should be provided from within the Association itself.

Topics

The two-day event is proposed to be divided between topics dedicated to both victims and defence issues in two different groups, as well as a joint session addressing the proposed establishment of an independent association of Counsel:

Group A

- **Topic 1:** *How to ensure that the neutral role of the Registry and the independent nature of legal representation of victims before the Court are both adequately preserved within a single Victims Office?*
- **Topic 2:** *How to give shape to the relationship between the external Counsel and the proposed in-house legal team as well as other support structures within the Victims Office, including field support, with a view to ensuring the independence, effectiveness and high quality of legal representation of victims before the Court?*

Group B

- **Topic 1:** *How to ensure that the proposed new Defence Office will provide adequate administrative, logistical and financial support to the Defence?*
- **Topic 2:** *How to ensure that Defence teams can count on adequate legal support as well as institutional knowledge on Defence issues?*

Joint session

- **Topic:** *How to ensure the prompt establishment of an independent association of Counsel and how this association can strengthen the institutional representation of the collective interests of Counsel at the International Criminal Court?*

Organisation of the Conference

The event will take place over two days at the premises of the Court, in the Press Briefing Room as well as in other designated meeting rooms in the Court's premises. Interpretation between English and French will be provided. Microphones at the table will be provided for all participants. The substantive discussions during the Conference will be moderated in two parallel groups and will take place simultaneously in different conference rooms in the Court. For the first day of the event, the approximately 50 participants will be able to choose in advance the discussion topic in which they wish to participate. At the end of each group discussion the participants of both groups will be joined and the Moderators of the respective groups will present the views expressed and the conclusions of the discussions to the whole Conference. The discussions during the second day will take place in a joint session.